

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

OSCAR RAMOS,

Plaintiff,

v.

LESA MARIE GONZALEZ, et al.,

Defendants.

Case No. 2:24-cv-01261-CSK

PRETRIAL SCHEDULING ORDER AND
ORDER DISMISSING DOE DEFENDANTS

READ THIS ORDER CAREFULLY. IT CONTAINS IMPORTANT DATES THAT THE COURT WILL STRICTLY ENFORCE AND WITH WHICH ALL COUNSEL AND PARTIES, INCLUDING THOSE PROCEEDING WITHOUT COUNSEL, MUST COMPLY. FAILURE TO COMPLY WITH THE TERMS OF THIS ORDER MAY RESULT IN THE IMPOSITION OF MONETARY AND ALL OTHER APPROPRIATE SANCTIONS.

On January 28, 2025, the Court conducted a status (pretrial scheduling) conference in this matter. At the status conference, attorney Richard Mac Bride appeared on behalf of Plaintiff, and attorney David Roth appeared on behalf of Defendants. After considering the parties' joint status report (ECF No. 18), and the status conference held, the Court issues the following pretrial scheduling order.¹

¹ This matter proceeds before the undersigned pursuant to 28 U.S.C. § 636(c) on the consent of all parties. (ECF Nos. 4, 15, 16.)

I. NATURE OF THE CASE

From the parties' Joint Status Report (ECF No. 18 at 1):

Plaintiff's Position:

Plaintiff's Complaint alleges claims for: (1) Violation of the Americans with Disabilities Act of 1990; (2) Breach of Statutory Protections for Persons with Physical Disabilities; (3) Violation of California's Civil Rights Act; and (4) Violation of California Unruh Civil Rights Act.

Defendants' Position:

Defendants maintain that they acted reasonably and in good faith at all times.

II. SERVICE OF PROCESS, JOINDER OF PARTIES, PLEADINGS AMENDMENT

All named Defendants have been served and have answered the Complaint. (ECF No. 18 at 1.) Plaintiff indicated that a motion to amend may be needed after the site inspection of the subject property was completed. (ECF No. 18 at 2.) At the scheduling conference, the parties informed the Court that the site inspection has been cancelled due to ongoing settlement discussions. No further service, joinder of parties, or amendments to pleadings is permitted except with leave of Court, and only after good cause is shown.

The Court notes fifty (50) Doe Defendants are named in the Complaint. (See ECF No. 1.) The inclusion of such "Doe" defendants is generally disfavored in the Ninth Circuit. *Soo Park v. Thompson*, 851 F.3d 910, 928 n.21 (9th Cir. 2017) (citing *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980)). In addition, in the parties' Rule 26(f) report, Plaintiffs indicate that Defendants Lesa Marie Gonzalez, individually and dba Dave's Giant Hamburger, Ellen Carol Gansberg are the only defendants, stating: "[a]ll Defendants have been served. There are no cross-defendants." (ECF No. 18 at 1.) Plaintiff also indicated joinder of additional parties was "[n]ot anticipated." (*Id.* at 2.) However, Plaintiff indicated that "[d]iscovery has not been conducted as to whether there are any other defendants who need to be named. This should be done within four months." (*Id.* at 6.) At the scheduling conference, Plaintiff confirmed that dismissal of the

1 Doe Defendants was appropriate. The Doe Defendants are hereby DISMISSED from
2 this case, and should Plaintiffs wish to amend to add additional named defendants after
3 discovering their identities, Plaintiffs may file a motion to amend and submit this motion
4 for the Court's review. No further service, joinder of parties, or amendments to pleadings
5 is permitted except with leave of Court, and only after good cause is shown.

6 **III. JURISDICTION/VENUE**

7 The parties assert that the Court has subject matter jurisdiction (ECF No. 18 at 2),
8 which is found to be proper. Venue is proper and undisputed. (*Id.*)

9 **IV. DISCOVERY DEADLINES AND PROCEDURES FOR DISCOVERY DISPUTES**

10 **A. Initial Disclosures**

11 The parties indicate they have exchanged Rule 26 Initial Disclosures. (ECF No.
12 No. 18 at 2-3.) At the scheduling conference, the parties confirmed initial disclosures
13 have been exchanged.

14 **B. Joint Mid-Discovery and Mediation Status Statement**

15 By **May 31, 2025**, all parties shall file with the Court a Joint Mid-Discovery
16 Statement summarizing the current status of discovery efforts. This statement shall
17 include discovery completed to date and identification of issues, if any, preventing
18 discovery from proceeding in a timely manner. The filing of this statement shall not
19 relieve the parties or counsel of their obligations to meet and confer, comply with the
20 deadlines set by the Court, and comply with the discovery procedures set by the Court.

21 **C. Non-Expert Discovery**

22 All non-expert discovery shall be completed by **September 30, 2025**. "Completed"
23 means (1) all non-expert discovery shall have been conducted, including written
24 discovery and depositions taken, and (2) any disputes related to discovery shall have
25 been resolved by appropriate order if necessary and, where discovery has been
26 ordered, the order has been complied with. Any discovery-related motions must conform

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1 to the requirements of the Federal Rules of Civil Procedure, this Court's Local Rules,²
2 including Local Rule 251, and Judge Kim's Civil Standing Orders.³ Judge Kim hears civil
3 motions on Tuesdays at 10:00 a.m.

4 **D. Expert Discovery**

5 The parties shall disclose any expert witnesses in accordance with Federal Rule
6 of Civil Procedure 26(a)(2) no later than **October 15, 2025**. Any rebuttal expert
7 disclosures shall be made in accordance with Fed. R. Civ. P. 26(a)(2) no later than
8 **October 31, 2025**. Expert disclosures shall be served upon all parties. All expert
9 discovery shall be completed by **November 14, 2025**. "Completed" means (1) all expert
10 discovery shall have been conducted, including depositions taken, and (2) any disputes
11 related to expert discovery shall have been resolved by appropriate court order if
12 necessary and, where discovery has been ordered, the order has been complied with.
13 The same procedures for discovery disputes applies to non-expert and expert discovery.

14 An expert witness not timely disclosed will not be permitted to testify unless the
15 party offering the expert witness demonstrates that the failure was substantially justified
16 or is harmless. See Fed. R. Civ. P. 37(c). Upon discovery of any such expert witness,
17 the party offering the late disclosed expert witness must promptly notify all parties in
18 writing, promptly make the expert witness available for deposition, and promptly notify
19 the Court in a written filing. This filing must include the case deadlines for expert
20 disclosures, expert discovery cut-off, dispositive motions, final pretrial conference, and
21 trial. Failure to timely provide the information required by Fed. R. Civ. P. 26(a)(2) may
22 lead to preclusion of the expert's testimony or other appropriate sanctions. See Fed. R.
23 Civ. P. 37(c).

24
25 ² The Local Rules of the United States District Court for the Eastern District of California
26 are available on the district court's website:
<https://www.caed.uscourts.gov/caednew/index.cfm/rules/local-rules/>.

27 ³ Judge Kim's Civil Standing Orders are available on Judge Kim's webpage on the
28 district court's website: <https://www.caed.uscourts.gov/caednew/index.cfm/judges/all-judges/united-states-magistrate-judge-chi-soo-kim-csk/>.

1 E. Discovery Disputes

2 Prior to filing any discovery-related motions, the parties are required to meet and
 3 confer in good faith in an attempt to resolve their discovery disputes informally and
 4 without Court intervention. Such meet and confer shall take place in person, by
 5 telephone, or by video. The mere exchange of letters or e-mails alone is not sufficient.
 6 As part of their joint statement related to a discovery motion submitted pursuant to Local
 7 Rule 251, the parties shall also specifically outline: (a) what meet-and-confer efforts were
 8 taken, including when and where such discussions took place, who participated, how the
 9 parties' disputes were narrowed as a result of such discussions; and (b) a summary of
 10 discovery completed to date. Failure to comply with these requirements may result in
 11 summary denial of any discovery motion.

12 The Court strongly encourages the use of informal telephonic discovery
 13 conferences with the Court in lieu of formal discovery motion practice. The procedures
 14 and conditions for requesting and conducting such an informal telephonic discovery
 15 conference are set forth in Judge Kim's Civil Standing Orders. In addition, and subject to
 16 availability, the Court will rule on disputes encountered during oral depositions. If a
 17 dispute arises during the deposition, the parties may contact Judge Kim's Courtroom
 18 Deputy at (916) 930-4187 to inquire regarding Judge Kim's availability. However, the
 19 parties are cautioned that these informal procedures are not to be abused, and the Court
 20 may impose appropriate sanctions.

21 V. MOTIONS

22 All pretrial law and motion, including motions for summary judgment under Fed.
 23 R. Civ. P. 56, shall be filed by **December 16, 2025** and heard by **January 20, 2026**.⁴

24 Dispositive motions must be filed following the procedures of Local Rules 230 and
 25 260, and Judge Kim's Civil Standing Orders. Counsel and parties proceeding without

26 ⁴ Pursuant to Local Rule 230(b), a motion set for hearing on January 20, 2026 must be
 27 filed by December 16, 2025, which is 35 days before the hearing date. Please note that
 28 Judge Kim has a separate schedule for cross motions for summary judgment, which is
 set out in her Civil Standing Orders.

1 counsel should pay particular attention to the rules for Statements of Undisputed Facts
2 for motions for summary judgment, cross motions for summary judgment, and general
3 brief requirements in the Local Rules and Judge Kim's Civil Standing Orders. If both
4 Plaintiff and Defendant intend to file motions for summary judgment, the parties must
5 follow the schedule and requirements set out in Judge Kim's Civil Standing Orders for
6 cross motions for summary judgment.⁵ Judge Kim generally hears civil motions on
7 Tuesdays at 10:00 a.m. This paragraph does not apply to motions for continuances,
8 motions in limine related to trial, temporary restraining orders, or other emergency
9 applications, for which the Court may set a special briefing schedule, if necessary or
10 appropriate.

11 All purely legal issues are to be resolved by timely pretrial motion. The purpose of
12 law and motion is to narrow and refine the legal issues raised by the case, as well as to
13 dispose of those issues that can be resolved by pretrial motion. Motions in limine should
14 address trial-related issues, such as the admissibility of evidence. The Court will look
15 with disfavor upon dispositive motions or other substantive legal motions presented as
16 motions in limine at the time of trial.

17 **VI. SETTLEMENT CONFERENCE**

18 At the scheduling conference, the parties indicated they have begun settlement
19 discussions to resolve this action and are not requesting a settlement conference with a
20 magistrate judge at this time. If the parties want to conduct a settlement conference with
21 a magistrate judge, they are to contact the undersigned's courtroom deputy at (916) 930-
22 4187 or awaldrop@caed.uscourts.gov, to inquire as to the availability of another
23 magistrate judge for a settlement conference. Parties should communicate the specific
24 time frame when they would like the settlement conference held.

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27 ⁵ Pursuant to Judge Kim's Civil Standing Orders, if both Plaintiff and Defendant intend
28 to file motions for summary judgment, Plaintiff's opening summary judgment motion must
be filed by December 2, 2025.

VII. FINAL PRETRIAL CONFERENCE AND TRIAL

The final pretrial conference is set for **March 10, 2026** at 10:00 a.m. and trial is set for **April 6, 2026** at 9:30 a.m. in Courtroom No. 25 before United States Magistrate Judge Chi Soo Kim. Trial counsel must appear at the final pretrial conference. At the final pretrial conference, the Court will set the deadlines for other trial-related deadlines, including the submission of exhibits and filing of findings of fact and conclusions of law.

A. Meet and Confer

At least 28 days before the final Pretrial Conference, lead counsel who will try the case shall meet and confer with respect to the following subjects: (1) settlement of the case; (2) preparation of the joint pretrial filings; and (3) clarifying and narrowing the contested issues for trial. Counsel in close geographical proximity are encouraged to meet in person.

B. Joint Pretrial Statement

The parties shall file a joint pretrial statement pursuant to Local Rule 281(a)(2). The joint pretrial statement must be filed no later than twenty-one (21) days before the date set for the final pretrial conference and must also be emailed as a Word document to CSKorders@caed.uscourts.gov. **Separate pretrial statements are not permitted unless a party is not represented by counsel.**

The pretrial statement must cover all topics identified in Local Rule 281 with the following additions and clarifications:

1. Statement of the Case: A concise, joint statement of the case must be included.
2. Trial Length Estimate: An estimate of the length of trial must also be included. Unless otherwise ordered, trial hours will be from 9:30 a.m. to 4:30 p.m., Monday through Friday.
3. Procedural Status: A concise summary of the procedural status of the case must be included, including the disposition of any motions and whether any motions are still pending.

4. Factual Issues: The undisputed facts and disputed factual issues shall be set forth in separate sections of the pretrial statement. Each fact or factual issue should be numbered. For disputed factual issues, identify the cause of action or defense to which the factual issue is related.
5. Points of Law: In the points of law section of the pretrial statement, include the elements for each cause of action and each defense, with citation to the relevant legal authority.
6. Motions In Limine: The parties shall also identify the motions in limine each party reasonably anticipates filing.
7. Witness Lists: Each party's witness list must be submitted as a separate attachment to the pretrial statement, and labeled as such. The witness list must include the witness's name; the witness's title or position; whether the testimony is offered in-person or by deposition; whether the witness is designated as an expert; and a concise statement of the anticipated subjects of testimony. Pursuant to Local Rule 281, only individuals on the witness list submitted with the pretrial statement will be permitted to testify at trial, except as may be otherwise provided in the pretrial order. The witness's address does not need to be included.
8. Exhibit Lists: Each party's exhibit list must be submitted as a separate attachment to the pretrial statement, and labeled as such. Plaintiff's exhibits shall be listed numerically; Defendant's exhibits shall be listed alphabetically. All exhibits must be individually identified with specificity, including a reasonable amount of detail such that other parties can identify each exhibit, including exhibit name/title, document/file date, bates numbers, and a concise description of the exhibit. Groups or categories of documents/records may not be listed as a single exhibit (e.g., it is improper to list "Initial Disclosure Documents," "Cell phone records," etc. as a single exhibit). Pursuant to Local Rule 281, only exhibits on the exhibit list

submitted with the pretrial statement will be permitted to be offered at trial, except as may be otherwise provided in the pretrial order. The parties are instructed to refer to and follow the Court's Jury Trial Procedures available on Judge Kim's webpage on the district court's website:

<https://www.caed.uscourts.gov/caednew/index.cfm/judges/all-judges/united-states-magistrate-judge-chi-soo-kim-csk/>. This document includes important instructions and requirements for exhibit lists.

9. Further Discovery or Motions: Inclusion of a section regarding further discovery or motions in the pretrial statement pursuant to Local Rule 218(b)(13) will not be interpreted as a motion to request further discovery, a request to modify the scheduling order or any other order issued for this case, or as an actual motion or request. The parties must continue to follow the scheduling order(s) for this case, the Local Rules, and the Court's standing orders to request further discovery or a modification of the scheduling order(s).

C. Motions In Limine

Motions in limine shall be filed by the close of business fourteen (14) days before the date set for the final pretrial conference. Any opposition shall be filed by the close of business seven (7) days before the date set for the final pretrial conference. No replies shall be filed.

Briefing for motions in limine shall be limited to 25 pages total for each side. Each motion in limine should be numbered and clearly identified. For example, "Plaintiffs' Motion in Limine No. 1 Re: [subject]." The brief shall include a table of contents at the beginning that lists each motion in limine and the page number on which the motion begins.

Briefing for oppositions/ responses to motions in limine shall also be limited to 25 pages total for each side. Each opposition/ response should be numbered and clearly identified. For example, "Defendants' Opposition to Plaintiffs' Motion in Limine No. 1 Re:

1 [subject].” The brief shall also include a table of contents at the beginning that lists each
2 motion in limine opposition/ response and the page number on which the opposition/
3 response begins.

4 The parties should be prepared to argue their motions in limine at the final pretrial
5 conference. The Court will endeavor to rule on motions in limine before trial begins to
6 assist the parties in their trial preparations.

7 **D. No Proposed Voir Dire, Jury Instructions, and Verdict Forms**

8 Because this case will be tried to the bench, proposed voir dire questions, jury
9 instructions, and verdict forms should not be submitted.

10 **E. Trial Briefs**

11 Parties are not required to file trial briefs. If a party chooses to file a trial brief, it
12 shall not be longer than five pages and shall be filed no later than by the close of
13 business fourteen (14) days before the date set for the final pretrial conference. Trial
14 briefs shall not duplicate the contents of the joint pretrial statement and proposed order.

15 **F. Courtesy Copies**

16 Two binders containing courtesy copies of the Joint Pretrial Statement, witness
17 lists, exhibit lists, proposed voir dire questions, proposed joint jury instructions, proposed
18 joint verdict forms, motions in limine, and optional trial briefs must be delivered to the
19 Clerk’s office by noon thirteen (13) days before the date set for the final pretrial
20 conference. This is the day after the filing deadline for the proposed voir dire questions,
21 proposed jury instructions, proposed verdict forms, motions in limine, and optional trial
22 briefs. *Parties should coordinate so that only two courtesy copies are submitted, rather*
23 *than submitting separate courtesy copies from each party.* Parties do not need to provide
24 courtesy copies of the motion in limine oppositions.

25 All courtesy copies must be double-sided, three-hole punched at the left margin,
26 and marked with the ECF stamp (case number, document number, date, and page
27 number) on the top of each page. These binders shall include labeled side tabs, and be
28 clearly marked “Chambers Copy – Do Not File” with Judge Kim’s name, the case

number, and the case name.

G. Trial

A bench trial is set for **April 6, 2026** at 9:30 a.m., in Courtroom No. 25. The parties estimate 3-5 days for trial. (ECF No. 18 at 5-6.)

VIII. SCHEDULE SUMMARY

Event	Deadline
Initial Disclosure Exchange	Parties have exchanged by agreement.
Joint Mid-Discovery and Mediation Status Report	May 31, 2025
Non-Expert Discovery Completion	September 30, 2025
Expert Disclosures	October 15, 2025
Rebuttal Expert Disclosures	October 31, 2025
Expert Discovery Completion	November 14, 2025
If cross-motions for summary judgment, ⁶ Plaintiff's Summary Judgment Motion Filed By	December 2, 2025
If no cross-motions for summary judgment, Dispositive Motion Filed By	December 16, 2025
Dispositive Motions Heard By	January 20, 2026
Joint Pretrial Statement Filed By	21 days before the FPTC
Motions In Limine Filed By	14 days before the FPTC
Final Pretrial Conference ("FPTC") and Motions In Limine Hearing	March 10, 2026
Bench Trial (3-5 days)	April 6, 2026

IX. MODIFICATIONS OF THIS SCHEDULING ORDER

This case schedule will become final without further order of the Court unless written objections are filed within fourteen (14) days of the entry of this order. The parties

⁶ If both Plaintiff and Defendant intend to file motions for summary judgment, the parties must follow the schedule set out in Judge Kim's Civil Standing Orders for cross-motions for summary judgment.

are reminded that pursuant to Federal Rule of Civil Procedure 16(b)(4), this order shall not be modified except by leave of Court upon a showing of “good cause.” See *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604 (9th Cir. 1992). Agreement by the parties pursuant to a stipulation does not constitute good cause. Nor does the unavailability of witnesses or counsel, except in extraordinary circumstances, constitute good cause. Requests or stipulations to continue dispositive motion deadlines, the final pretrial conference, or trial dates must establish good cause and are not granted lightly.

Any request or stipulation to modify this scheduling order must set forth the following:

1. the existing due date or hearing date as well as the discovery cutoff date, the last date for hearing motions, the final pretrial conference date, and the trial date;
2. whether there have been prior requests for extensions, and whether these were granted or denied by the Court; and
3. specific, concrete reasons supporting good cause for granting the extension. For example, if the reason for the requested extension is that it “will promote settlement,” the requesting party or parties must indicate the status of negotiation efforts (e.g., whether a mediator has been selected, a mediation has been scheduled, etc.).

Dated: January 29, 2025


CHI SOO KIM
UNITED STATES MAGISTRATE JUDGE

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